

K.S.A. 44-534a restricts appeals from preliminary hearing awards with regard to the following disputed issues:

- “1. Whether employee suffered an accidental injury;
- “2. Whether the injury arose out of and in the course of the employee’s employment;
- “3. Whether notice is given or claim timely made;
- “4. Whether certain defenses apply.”

These issues are considered jurisdictional and subject to review by the Appeals Board.

K.S.A. 44-551, as amended, also allows appeal from a preliminary hearing order if it is alleged that the administrative law judge exceeded his jurisdiction in granting or denying the relief requested.

Claimant contends the administrative law judge erred in refusing to order medical treatment, back temporary total disability benefits, and a fair impairment rating. The first two issues are not issues listed in either K.S.A. 44-534a, as amended, or K.S.A. 44-551, as amended, as jurisdictional, from which an appeal can be taken from a preliminary hearing. As such, the Appeals Board has no jurisdiction over these issues.

The third issue, dealing with whether claimant was provided a fair impairment rating, is an issue concerning the permanency of claimant’s condition. This would not be an issue to be litigated at preliminary hearing, but rather one to be taken to regular hearing. As such, the Appeals Board also has no jurisdiction over this particular issue and claimant’s appeal of this matter should be and, hereby is, dismissed.

WHEREFORE, the Appeals Board finds that the Order by Administrative Law Judge John D. Clark, dated June 18, 1997, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of August 1997.

BOARD MEMBER

c: Ronald J. Laskowski, Topeka, KS
Marcus T. Silmon, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director